201 KAR 25:090. Prescribing and dispensing controlled substances.

RELATES TO: KRS 218A.205, 218A.172
STATUTORY AUTHORITY: KRS 218A.205(3)(a), 311.410(4)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.205(3)(a) requires the board to establish standards for prescribing controlled substances. KRS 218A.172 requires the board to promulgate administrative regulations governing the prescribing or dispensing of any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone. This administrative regulation establishes the standards for prescribing or dispensing controlled substances.

Section 1. Prescribing or dispensing a controlled substance. (1) This administrative regulation governs the prescribing and dispensing of controlled substances listed in Schedule II through V as classified in KRS 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, and 218A.130.

(2) If initially prescribing or dispensing a controlled substance, a licensee shall:

(a) Obtain a complete medical history and conduct a physical examination of the patient;

(b) Complete a written treatment plan which states the objectives of the treatment underlying the prescription of the controlled substance and which includes an outline of any further diagnostic examinations that may be required;

(c) Discuss the risks and benefits of the use of controlled substances with the patient or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence;

(d) Verify that the patient is the person that he or she has identified himself or herself as being by requiring the person to produce proper government issued identification;

(e) Query the Kentucky All-Schedule Prescription Electronic Reporting System (KASPER) for all information available on the patient if prescribing controlled substances that are included in:

1. Schedule II;
2. Schedule III; and
3. The following from Schedule IV:

a. Ambien;
b. Anorexics;
c. Ativan;
d. Klonopin;
e. Librium;
f. Nubain;
g. Oxazepam;
h. Phentermine;
i. Soma;
j. Stadol;
k. Stadol NS;
l. Tramadol;
m. Valium;
n. Versed; and
o. Xanax;

(f) Obtain consent for the treatment from the patient in writing; and

(g) Document the patient's file as required by Section 2 of this administrative regulation.

(3) If it is necessary to continue the prescription or dispensation of a controlled substance after the initial supply is completed, a licensee shall:

(a) Conduct, at reasonable intervals under the circumstances presented, all clinically indicated steps;

(b) Review the course of treatment that he initially prepared to determine if any changes are required;

(c) Provide any new information about the course of treatment or any changes made to the patient;

(d) Query KASPER for all information available on the patient no less than once every three months for all available data on the patient to review that data before issuing any new prescription or refill for the patient for controlled substance specified in subsection (2)(e) of this section; and

(e) Document the patient's file as required by Section 2 of this administrative regulation.

Section 2. Podiatric medical records for patients being prescribed controlled substance shall include at a minimum:

(1) The patient's name;

(2) The patient's date of birth;

(3) The information concerning the patient's medical history and physical examination required by Section 1 of this administrative regulation;

(4) The podiatrist's diagnosis of the patient's condition;

(5) The procedures and treatments to be undertaken and their objectives;

(6) The date of the procedures or treatments;

(7) (Whether local or general anesthetics were used, including the type and the amount administered;

(8) Diagnostic, therapeutic, and laboratory results;

(9) The findings and recommendations of any other evaluations or consultations;

(10) All medications administered or prescribed by the podiatrist, including the date, type, dosage, and quantity administered or prescribed;

(11) Any post-treatment instructions from the podiatrist; and

(12) Documentation that the KASPER query required by Section 3 of this administrative regulation was completed.

Section 3. If a prescription for a controlled substance is written, a podiatrist shall:

(1) Obtain and document in the patient's podiatric medical record the information concerning the patient's medical history and physical examination required by Section 1 of this administrative regulation;

(2) Query the Kentucky All-Scheduled Prescription Electronic Reporting System (KASPER) for all available data on the patient if the controlled substance is one specified in Section 1(2)(e) of this administrative regulation and record the results of the query in the patient's record;

(3) Discuss the risks and benefits of the use of controlled substances with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence; and

(4) Obtain consent for the treatment from the patient in writing.

Section 4. Dispensing Schedule II or Schedule III controlled substances containing hydrocodone. (1) A licensee shall not dispense more than a forty-eight (48) hour supply of Schedule II or Schedule III controlled substances containing hydrocodone.

(2) If a patient continues to present with pain after the initial supply has been completed and the podiatrist believes that an additional prescription for a controlled substance is medically appropriate, the podiatrist shall at a minimum:

(a) Follow the requirements of Section 1 of this administrative regulation; and

(b) Prescribe only that amount of the controlled substance that is appropriate under accepted and prevailing practice standards.

Section 5. Authority to prescribe controlled substances. (1) A podiatrist licensed by the board may prescribe any medicine necessary for the treatment of a patient that comes within the practice of podiatry as defined by KRS 311.380(2), including Schedule II and Schedule III controlled substances containing hydrocodone, if the licensee:

(a) Has obtained a license number from the Drug Enforcement Administration;

(b) Registers with and utilizes the Kentucky All-Schedule Prescription Electronic Reporting System (KASPER) as required by KRS 218A.202;

(c) Follows the requirements of this administrative regulation; and

(d) Meets all the requirements for utilizing KASPER promulgated by the Cabinet as well as the requirements set forth in KRS 218A.202.

(2) A licensed podiatrist shall not prescribe or dispense:

(a) With the intent or knowledge that a medication will be used or is likely to be used for any purpose other than one that is necessary for medical treatment or therapeutic use;

(b) With the intent to evade any law governing the sale, use, or disposition of the medication;

(c) When the licensee knows or has reason to know that the abuse of the controlled substance is occurring or may result therefrom; and

(d) In amounts that the licensee knows or has reason to know, under the circumstance, that the amount prescribed is excessive under accepted and prevailing practice standards.

(3) After a hearing conducted under KRS Chapter 13B and 201 KAR 25:051, the board shall fine a licensee who otherwise has the authority to prescribe controlled substances, but who has failed to register for an account with KASPER, an amount not less than $250 per prescription for each prescription that individual has written while not properly registered. (39 Ky.R. 676; 1391; eff. 2-1-2013.)